

**City of Newburgh  
INDUSTRIAL DEVELOPMENT AGENCY  
("IDA")  
MINUTES OF MEETING  
November 16, 2009**

**Present**

Board Members: Michael Curry, Treasurer  
Richard Bedrosian  
John Penney  
Joshua Smith, Vice-Chairman  
Excused Absence: Spencer Gulliver  
Jerry Maldonado  
Sean O'Shea  
Of Counsel: Thomas Whyatt, Esq.  
Administrative Director Courtney Kain

1. **Roll Call.** Taken.
2. **Proof of Notice of Meeting.** Accepted

**(To accommodate representatives from Murphy's Ditch, the Board unanimously consented to change the order of the Agenda. See "Old Business" for the Murphy's Ditch discussion.)**

3. **Request for Bills and Communications.** Mr. Curry gave a report on bank statements, a Proof of insurance from Unitex, a statement from Nugent (paid in full), a Codes Violation Notice on 207 Lake Street Bldg. 12, Unit 65, a statement from Tarshis, Catania regarding a legal settlement matter with Mr. Lamar, an income statement from Crown Castle, a letter from the Town of Newburgh regarding a variance request near Murphy's Ditch, and he signed the engagement letter to Sedore & Company.
4. **Approval of Minutes of October 19 Meeting.**  
Mr. Penney: Motion to approve.  
Mr. Curry: Motion seconded.  
**VOTE: Unanimously adopted.**
5. **Reports on Committees.**

**Treasurer's Report.** Mr. Curry reported on the operating account and recommended paying invoices from Oxman Tulis (\$11,678), Ms. Boyle (\$125), Title Search (\$1,800) Sanitation bill from DPW and a City of Newburgh postage bill. Subsequently in a meeting with Ms. Kain, the check and invoice are being held until verified. He anticipates approximately \$13,706 outgoing. The Income update needs reconciliation. A \$2910.96 interest payment was received from Leyland-Newburgh Associates. Since this was more than a month late, Mr. Whyatt suggests a "tickler" system to ensure the mortgage loan payment is paid in the first 10 days of the month.

Sedore & Company has asked if QuickBooks is being used to generate a monthly balance sheet and P&L statement. Currently Treasurer's reports only reconcile bank account activity. Sedore will present an audited open balance to create a base line for a confident reporting.

Mr. Curry: Motion to pay the current invoices.

Mr. Penney: Motion seconded.

**VOTE: Unanimously approved.**

Governance: Due to Mr. Maldonado being out of town, Mr. Whyatt has not seen the Property Disposition Guidelines. There are still open questions on the Revised By-Laws. Mr. Whyatt hopes to have both documents finalized by the December meeting. Ms. Kain will include this information in her letter to the ABO recapping the IDA's communications with them.

Audit: There was no quorum for the Audit Committee. Mr. Whyatt said an assessment of internal controls will be needed, which the auditors can provide, and it should be received soon so that any required changes in controls can be implemented by year end.

## 6. Old Business

- **Murphy's Ditch Easement:** Present were Mr. Joseph Korn, Garden Homes Development, and John Cappello, Esq., Jacobowitz & Gubis. Mr. Cappello gave a history of the transfer from Lloyds to the City of Newburgh from February 2006 and the easement negotiations for \$155,000 culminating in the closing September 2006. IDA representative at the time, Mr. McKenna, never appeared at the closing. Mr. Cappello sent letters to Corporation Counsel and had conversations with Ms. Talerico on September 12 & 13, 2006. There were subsequent conversations with City Manager McGrane and Mr. Chanin. Mr. Cappello asserted there was no follow-up from the City, so he subsequently held the easement agreement check of \$155,000 to the City for over a year.

Mr. Korn's November 10, 2009 proposal is to pay the IDA \$45,000 now. There are two undeveloped pads; he proposes two subsequent payments of \$55,000 each (upon Town of Newburgh approval of the site plan for one pad, and when remediation of the second pad is completed). Mr. Korn's position is that they have the right to cross the parcel. The Newburgh School District has benefited from over \$400,000, and the City has benefited from over \$30,000 in sales taxes. Almost 300 jobs were created among Kohl's, Home Depot and Pet Smart. Mr. Whyatt explained that Town of Newburgh Planning Board accepted as sufficient evidence the signed documents from the former IDA and the Council resolution.

Mr. Whyatt advised that the Installment Agreement language should clarify that 'either/or' pad events would trigger the next \$55,000 payment. Mr. Whyatt also requested security language to inform potential tenants that the IDA has a legal interest in developing the pads. This would also be helpful for the DEC in the remediation process. Mr. Cappello will revise the language to address these IDA concerns.

Mr. Korn will send block-lot pad numbers. He will also request job creation numbers information from his tenants.

Mr. Penney: Motion to accept the installment plan, subject to a revision to the easement language by the attorneys.

MC: Motion seconded.

**VOTE: Unanimously carried.**

- **1 Corwin Court:** There has been no response from letter sent to them. The Comptroller's office needs to verify the dates and amounts of the last four last payments.
- **EDA Award Update:** Ms. Kain reported that the use limitations have been broadened from 'medical technology' so that a technology incubator center will be an acceptable use. A Title Opinion is being conducted now. She reported challenges with the engineering report and that easements are needed around the drainage points on lots 2, 6 and 5. Mr. Whyatt has drafted language for an Easement Agreement in order for the City to have access to maintain the drainage area. Ms. Kain anticipates completion of these tasks by the December board meeting.
- **IDA Property list.** The Title research has been completed. The reports include copies of deeds for every property we believe IDA owns, and copies of any reported mortgages and recorded leases and a list of properties which were conveyed out within 5 years. This will be the basis for a report to the Comptroller's office. The research includes maps. Mr. Whyatt requests that the GIS system be available to input the list. It all needs to be entered in a database form which could then be entered into PARIS system. Once it is in PARIS, it is a simple annual update.
- **West Street Parcel Boundaries and the DEC voluntary compliance agreement.** Mr. Whyatt wants the EDA matter cleared up and the easements recorded before the Consolidation Deed is executed, in order to minimize EDA confusion. Mr. Whyatt is waiting for Mr. McDougall to finalize information. Corporation Counsel for the City has the agreements and needs to review them.
- **Brownfield Sites.** The BOA discussion will be held in executive session.
- **2010 Budget.** Mr. Curry distributed income and expense sheets and explained his methodology on projections for the 2010 budget. Since the ABO November 1<sup>st</sup> reporting deadline was missed, the Board should wait until the December meeting in order to adopt a balanced budget. Ms. Kain will reference the 2010 Budget status in her letter to the ABO. The 2008 audit will not be completed by the December meeting. Mr. Bedrosian requested a better tracking method for billing time of city employees. Mr. Whyatt believes these items will be addressed in an agreement between the IDA and the City. Budget discussions will continue at the December meeting.
- **Verizon Building Status** – Ms. Kain is still trying to arrange an inspection. Mr. Smith asked if the building is still available and if Verizon is still willing to transfer it as a charitable donation, or a sale. Ms. Kain said the City of Newburgh worked with Verizon in the past to negotiate a franchise agreement. She will reach out to these contacts to further this conversation with representatives from the real estate management division. Verizon is willing to arrange an inspection. Ms. Kain's contact did not indicate whether it was for sale or charitable donation and he asked if the IDA had a use in mind. Mr. Smith suggests that Records Management might also be moved there. Hudson Valley Technology Center and the Hudson Valley Center for Innovation are also looking for space. There are initiatives. Mr. Smith commented on the City's negotiations with Verizon for their franchise and Ms. Kain said the franchise contract calls for Verizon to fund the development of a studio.

- **The Armory:** A November 12 letter of interest was sent from the City to the National Guard. Mr. Herbek sent a thank you to the Board for working on this. Ms. Kain said there are concerns as to whether the National Guard would look favorably on private use of the property, and that Senator Larkin is looking into that. Mr. Smith countered that surplus military properties have been given to municipalities for various and sundry uses, such as Bombardier (a Canadian commercial enterprise). The City Historian has done extensive research on the site. Orange County is not interested in the site supports the City's proposal to acquire it. Mr. Whyatt commended the efficiency with which all parties worked together to draft and deliver a letter within one week, for a project that has been languishing for a year.
- **IDA Computer Purchase.** Mr. Bedrosian said that access to QuickBooks by all of the Board is important to increase the transparency of our finances and the purchase should move forward. Ms. Kain has proposed to the City Manager that an office with a computer be available for the Board. There is space and a computer available now. When the City and IDA discuss the BOA application, she will make a recommendation. There was a discussion of how the IDA will interface with the server so that only the IDA members would have access with a password. There was a general discussion of remote servers and backup. Mr. Bedrosian mentioned 'cloud computing' that is an outside vendor paid for storage system.

## 8. New Business

- **Director's Insurance:** Mr. Smith introduced the topic because the City Manager said the self-insurance fund is empty. Mr. Curry offered to prepare an RFP for insurance. Mr. Bedrosian said the cost of insurance is affordable and it is easy to send faxes to insurance companies to get quotes. Mr. Whyatt asked if there is a policy, or just a fund. Mr. Penney said there is a \$3mm deductible and then policy kicks in. Ms. Kain will research whether there is a policy or simply a fund. The Proposed City Budget charges the IDA \$24000 per year. A commercial policy might be cheaper than that. Mr. Curry and Ms. Kain will talk.
- **\$15mm stimulus bond from county IDA.** Mr. Curry discussed Legislator Chris Eachus' memo to the IDA regarding who indicated partial funding was allocated specifically for census tracks 4 and 5. Mr. Curry spoke with the Orange County IDA's attorney. Applications are accepted for plans which are already approved. The deadline to spend is December, 2010. In order to be eligible you have to be self-financed to save percentage points. They are only accepting applicants who already have a plan approval.

Ms. Kain met with Jim O'Donnell, Director of the County IDA. The County has two interested parties for the entire \$15mm: Chester and Walkill. Ms. Kain assumed that Newburgh's legislators asked for funds. There is additionally \$10 mm for local municipalities. Jim O'Donnell is also acting director of the Empire Development Zone committee and Small Business Development. Ms. Kain is working with them to identify Newburgh opportunities. Thornwillow Press is a possibility. The question was asked as to who reviewed the two potential projects. Newburgh members of the Empire Zone are: Mayor Valentine, Pat Berardinelli, Damon Finch and Jill Verrechio who is the chairperson. Ms. Kain will pull \$15 mm information and ask legislators to promote that portion for 3 cities. Mr. Whyatt said Newburgh's local political leaders should be advocating for money right now. Ms. Kain said political officials and developer stakeholders have been looking at how they can step up.

Ms. Kain said we need to identify what we can deliver. Mr. Curry says we should report back to Kulisek and Eachus with projects. Mr. Berardinelli will also be representing Newburgh. Ms. Kain's information is that the Empire Zone program has challenges and will probably be retooled.

Regarding the Orange County Business Accelerator – supported at Stewart Airport (Michael DiTullo hired as executive director). Ms. Kain is not sure how the Orange County Business Accelerator (Mike DiTullo executive director) will be servicing the City of Newburgh with their plans. She will hold the \$15mm and 10M m recovery information. And we should ask the legislators to support funding to the 3 cities. Mr. Smith adds that Congressional Office should also be included, since there is interest in the air-conditioning facility.

9. **The Next Monthly Meeting is December 21.** Mr. Curry may not be present for the next two regular meetings. He will notify Assistant Treasurer O'Shea.
10. **Adjourn to Executive Session to Discuss Litigation.**  
 Mr. Bedrosian: Motion to Adjourn to Executive Session.  
 Mr. Curry: Motion Seconded.  
**VOTE: Unanimous Vote to Adjourn to Executive Session.**